

EGYPT VIOLENCE AGAINST WOMEN STUDY

**Violence Against Women and the Law: A *De Jure* and *De Facto*
Review of the Legal and Regulatory Structure**

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FOREWORD

This paper was developed within the context of Combating Violence against Women Project being implemented in cooperation with the National Council for Women (NCW) and the United States Agency for International Development (USAID). It aims at revising the laws and regulations regarding violence against women (VAW), as well as the mechanisms and practical policies through which they are implemented. It also aims to identify opportunities necessary for change and the capabilities required for application of laws and rules of justice.

The paper is written from the standpoint that women's access to justice does not stop at the legal text, even though the text forms the basis of the legal system. The problem is that women's access to the legal system depends on a number of other factors, including the means to enforce the law, the community's interaction with the law, awareness of such laws, and respect for the law.

Thus, the paper aims to understand problems related to the law that obstruct women's access to justice by investigating some basic questions:

- 1- How does the law's text ensure women's access to justice?
- 2- What are the legislative gaps, on which we need to work?
- 3- What is the role of those entitled to enforce the law?
- 4- What is the level of the community's awareness of the law and how convinced are they by it?

1. INTRODUCTION

Although violence against women is a worldwide phenomenon that inflicts suffering upon women, it differs from one society to another according to prevailing concepts, community awareness, social values, and the rule of law. Within the Arab world and international organizations, the women's movement has made considerable efforts to end violence against women, which was a glaring example of the violation of women's rights in both private (VAW at home) and public (VAW in the street and at work.). Thus, the UN Committee on the Elimination of Discrimination against Women expanded the scope of general prohibition of gender discrimination to include gender-based violence.

The Convention on the Elimination of All Forms of Discrimination Against Women defined violence against women as gender-based violence committed against women, or any act which causes women physical, sexual, or mental harm or suffering to women, including threats of such acts, coercion, or arbitrary deprivation of liberty. The Committee stressed that violence against women violates internationally recognized human rights regardless of whether those acts are perpetrated by the state or by a private citizen.

The Vienna Declaration and Programme of Action (1993) emphasized the need to combat discrimination against women as a form of violence. Item 38 of the Declaration states:

The World Conference on Human Rights stresses the importance of working towards the elimination of violence against women in public and private life, the elimination of all forms of sexual harassment, exploitation and trafficking in women, the elimination of gender bias in the administration of justice and the eradication of any conflicts which may arise between the rights of women and the harmful effects of certain traditional or customary practices, cultural prejudices and religious extremism.

Therefore, the UN Declaration on the Elimination of Violence against Women of 1993 (A/RES/48/104) defined *violence against women* as “any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.” The United Nations General Assembly adopted the Declaration in December 1993, and all of United Nations member states agreed to it.

Article 2 of the Declaration states that:

Violence against women shall be understood to encompass, but not be limited to, the following:

- a. Physical, sexual, and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation, and other traditional practices harmful to women, nonspousal violence, and violence related to exploitation;*
- b. Physical, sexual, and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women, and forced prostitution;*
- c. Physical, sexual, and psychological violence perpetrated or condoned by the State, wherever it occurs.*

Nonetheless, violence against women has continued in every community that failed to prevent the dangers associated with it. Moreover, the negative effects of violence against women have escalated and affected development efforts and the establishment of criteria for social, economic, and political justice. Therefore, in 2007 the United Nations Secretary-General launched an international campaign for the elimination of violence against women.

Egypt expressed concern over violence against women and focused on the importance of the law in bringing about a social evolution by ensuring equality for all citizens and preventing violence. The State has put reviewing and amending legislation at the top of its agenda to end violence, and this prioritization has contributed to the advancement of legal reform in Egypt, particularly regarding women's rights.

Since the onset of the new millennium, an increase in legislation has effectively contributed to the protection of women. This legislation includes amendments to the

Family Law, the enactment of a new Family Court Law, and a change in the law regarding Egyptian nationality, allowing Egyptian mothers to pass on their citizenship to their children if the father is non-Egyptian. Another new piece of legislation confers equality in fiscal treatment and freedom of movement and travel for women. Women assuming positions in the judicial system came as a crucial step toward full equality. Additionally, the constitutional amendments undertaken in 2007, most importantly articles 1, 5, and 62, among others, achieve some equality between the sexes. However, Egypt is still in need of further efforts to ensure these rights, as well as additional work on both the laws and implementation of the law. These changes determine women's rights and how they are applied, their effect on an individuals' legal status, the corresponding powers conferred upon some individuals, and the fair distribution of such rights to end to violence. Nevertheless, the country still must make significant efforts to enforce the laws.

Domestic violence is a major issue upon which many international organizations have focused, and these groups have formed a wider international movement to combat violence against women as a human rights issue. In October 2007, the United Nations Secretary-General published an in-depth study of all forms of violence against women that urged member states to promote gender equality, ensure that their laws and applications conformed to international standards, collect data to support their policies and planning, and provide the financial support necessary to achieve these objectives.

However, legal aspects of the issue of violence against women did not engage local organizations to the same extent as international organizations. The Egyptian library has a wide variety of research and studies on violence from the media and social perspectives, but studies of legal research that we came across were generally limited to discrimination against women in general, without focusing specifically on violence.

A limited number of studies and reports by local rights and women's organizations addressed monitoring of violence against women from a legal point of view. These reports reviewed the most important international treaties and covenants — and the Egyptian government's stance on them — as well as specific articles the government views with reservation. The same reports discussed the phenomenon of violence in light of the Egyptian Constitution and Islamic Law (*Shari'a*).

In addition, through a number of reports that monitored violence committed against women, the forms of violence against women can be classified as follows:

1. *Institutional violence*. Legislative discrimination against women; torture in police stations, especially the targeting of specific areas of women's bodies and the torture of women as a means to pressure a male family member; and mistreatment in Egyptian prisons.
2. *Community violence*. Sexual crimes; forced prostitution; deprivation of education, health care, and basic services; and violence against women in the media and cultural sphere.
3. *Domestic violence*. Beatings; killings; violation of virginity; female circumcision; early marriage; spousal rape; crimes of honor; and psychological violence as represented by deprivation from education, health care, and basic services.

1.1. Objectives of the Paper

The objectives of this paper include reviewing a number of areas related to violence against women:

- The national and international legislative framework.
- Enforcement mechanisms and the effect of cultural backgrounds on enforcing Egyptian laws, including Family Law, the Penal Code, Labor Law, and the Civil Code, in order to identify the legal points of weakness and strength and the legislative gaps related to violence against women.
- Previous local experience in combating violence against women.
- Available opportunities to improve the Egyptian legal framework with respect to Family Law, the Penal Code, Labor Law, and the Civil Code, with the aim of determining legal strengths and weaknesses, including legislative loopholes related to violence against women.
- Some of the challenges to efforts made to combat violence against women.
- Some of the recommendations to contribute to ending violence against women.

The paper focuses on the legal framework of several aspects of violence committed against women, as follows:

Family Law

- Violence, official and unofficial marriages, and marriage after rape
- Violence and divorce
- Violence and child custody
- Women's rights after divorce
- Women's rights to disposition of marital property

Penal Code

- Domestic violence
- Rules of evidence of violence
- Violence by family members
- Rape, including spousal rape
- Age of legal capacity and forcing victims to marry the perpetrator of rape
- Honor killings

Labor Law

- Sexual harassment
- Complaint procedures for proving violence

Civil Code

- Inheritance and transfer of property
- Compensation for sexual harassment or violence
- Application of justice in civil lawsuits

1.2. Methodology and Tools for Data Collection and Analysis

Legal Analysis was conducted by reviewing literature and laws related to violence against women. The sources included references drawn from international instruments, as well as from the Egyptian Constitution, which is founded upon equality.

The study's methodology also relied on the participation of stakeholders, individuals, and institutions concerned with ending violence against women. The aim was to analyze various articles of the law, how they are applied, and the extent to which application contributes either to the protection of women or increased violence against them. The study relied on several data collection and analysis methods, including in-depth group discussions, meetings with subject-matter experts and lawyers concerned with the issue of violence, and field visits to nongovernmental organizations (NGOs). Guidance for the in-depth group discussions and meetings with the concerned parties was collected from the following sources.

- Reviews of studies, reports, and research on the legal framework and applications related to violence.
- In-depth focus group discussions with lawyers and volunteers working in the NCW's Ombudsman's Office (five discussions) and with a number of lawyers working in women's and development organizations that provide legal support and family counseling. Focus groups were limited to 15 participants, and a set of questions was used to promote open discussion of participants' opinions without direction from the moderator. Sixty-two lawyers from 19 governorates¹ and the city of Luxor took part in these discussions.
- Four meetings with legal and human rights experts: Nazly Elsherbeeney, Amira Bahey Eldeen, Hafez Abu Seada, and Negad Elboraei.
- Visits to advocacy organizations to learn of their experiences: the El Nadeem Center for Rehabilitation of Victims of Violence, the Cairo Institute for Human Rights Studies, the Alliance of Arab Women, the Center for Egyptian Women's Legal Assistance, New Women's Association, and the Egyptian Center for Women's Rights. The information collected in these meetings related to the organizations' experiences and programs is presented in Section 1.

¹ Cairo, Giza, Helwan, Sixth of October, El Qalyubeya, South Sinai, El Wady El Gedeed, Matrooh, Ismailia, Menufeya, Port Said, North Sinai, El Fayoum, Assiut, Beni Sweif, Aswan, Suhag, Alexandria, and El Minia.

Meetings and Focus Groups

Meeting	Attendees	Date	Location
Focus group #1	Lawyers in the NCW Ombudsman's Office and NCW volunteers	February 2, 2008	The NCW Ombudsman's Office
Focus group #2	Other practicing lawyers	February 14, 2008	Headquarters, Combating Violence Against Women Project
Focus group #3	Volunteer lawyers in the NCW Ombudsman's Office — Cairo and delta governorates	February 23, 2008	The NCW Ombudsman's Office
Focus group #4	Volunteer lawyers in the NCW Ombudsman's Office — Upper Egypt governorates	March 1, 2008	The NCW Ombudsman's Office
Focus group #5	Lawyers in NGOs — Upper Egypt governorates	March 9, 2008	The NCW Ombudsman's Office
In-depth meeting	Negad Elboraei (Lawyer in Cassation and Director of United Group)	April 16, 2008	United Group offices
In-depth meeting	Amira Bahey Eldeen (Lawyer in Cassation)	April 17, 2008	Her office
In-depth meeting	Hafez Abu Seada (Lawyer; Secretary General, Egyptian Organization for Human Rights; member, National Council for Human Rights)	April 24, 2008	Headquarters, Egyptian Organization for Human Rights
In-depth meeting	Nazly Elsherbeeney (Lawyer in Cassation)	May 26, 2008	Project office at the NCW

In addition to the in-depth meetings and group discussions, the study included a review of reports, studies, and research on the legal framework and legal applications related to violence.

2. DE JURE AND DE FACTO PERSPECTIVES ON VIOLENCE AGAINST WOMEN

OUTCOMES OF FOCUS GROUPS AND MEETINGS

This paper focuses on four main domains in Egyptian law that are closely related to the protection of women from violence: Family Law, Labor Law, the Penal Code, and the Civil Code. Analysis reveals that the law is both written (*de jure*) and applied (*de facto*). Evaluations should be based not only on the laws as they exist (*de jure*) but also as they are being implemented (*de facto*). The two can be understood by analyzing legal and regulatory frameworks and the issues that arise from the shortcomings in both *de jure* and *de facto* protection of women against violence.

During the preparation of this research, a number of lawyers and academics discussed the implications of the effect of Egyptian laws on violence against women from both *de jure* and *de facto* perspectives. Some lawyers regard the law as a tool that establishes theoretical protection for women but sometimes does not ensure effective protection; this runs counter to the purpose of the law. Further, many legal texts implicitly discriminate against women, creating a favorable climate for physical and psychological violence against them both within and outside the family. Additionally, there are few options for providing victims with effective assistance, and perpetrators often receive only very mild punishments for their crimes.

The lack of clarity in some of the legal texts creates the possibility of contradictions in judicial orders as judges and other officials in the executive branch exercise their discretionary authority. Therefore, rights are made relative as they are applied in accordance with the cultural backgrounds of judges or other officials who enforce the law.

2.1. Legal Framework for Protecting Women Against Violence

The Constitution is Egypt's highest legal authority, and international conventions are on equal footing with Egyptian law. This section reviews the articles of the Constitution and various international conventions related to protecting women against violence. This section also reviews the Egyptian government's stance on these articles and clarifies the relationship between Egyptian laws and international conventions in order to examine local and international laws from both the *de jure* and *de facto* perspectives.

2.1.1. The Egyptian Constitution

Specific sections of the Egyptian Constitution stress the protection of human rights in general and of women in particular.

***Article 40.** All citizens are equal before the law. They have equal public rights and duties without discrimination between them due to race, ethnic origin, language, religion, or creed.*

***Article 8.** The State shall guarantee equality of opportunity to all citizens.*

***Article 10.** The State shall guarantee the protection of motherhood and childhood, take care of children and youth and provide the suitable conditions for the development of their talents.*

***Article 11.** The State shall guarantee the proper coordination between the duties of woman towards the family and her work in the society, considering her equal with man in the fields of political, social, cultural, and economic life without violation of the rules of Islamic jurisprudence.*

***Article 1:** The Arab Republic of Egypt is a democratic country based on citizenship, and the Egyptian people are part of the Arab World, and work to achieve its full unity.*

***Article 5:** The political system in the Arab Republic of Egypt is a multi-party system, and operates within the framework of the basic constituents and principles of the Egyptian community as stipulated in the constitution.*

***Article 62:** The citizen has the right to vote, and express his/her opinion in the referendum in accordance with the provisions of the law. The citizen's contribution in the public life is a national duty. The law regulates the right of nomination for the Peoples' Assembly and Shura Council elections, in accordance with any election system identified. The law is allowed to combine both the*

individual's system and the party-list system in any ratio identified; it could further include a minimum level for women's participation in both councils.

2.1.2. International Conventions

The international community cares about women's issues and rights, as numerous international agreements, led by the Universal Declaration for Human Rights, include articles that recognize women's rights and regard protection of women as a necessity. Many international conventions include articles devoted to women's rights and the necessity of protecting their rights. As such, the international community addressed women's issues separately from those of society in general; accordingly, many conventions and declarations concerned with women's rights were issued — and Egypt has signed and ratified a number of these instruments.

Universal Declaration for Human Rights

The Declaration stresses equality among all human beings and renunciation of discrimination and violence.

***Article 1.** All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.*

***Article 3.** Everyone has the right to life, liberty, and security of person*

***Article 7.** All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.*

Egypt signed this Declaration on December 10, 1948, which as a declaration does not require ratification.²

² Signing is a general commitment to the instrument's principles and is followed by ratification, the government's submission of the signed instrument to the appropriate legislative authority for approval. It then becomes law. The Declaration of Human Rights requires a signature, but not ratification.

When a new convention or covenant is issued, the States' delegates sign it as an expression of consent to the convention's texts. This action neither binds the state to apply the convention's articles, nor makes it internationally accountable; instead, signing serves as a moral commitment implying that the state recognizes a responsibility to desist from violating related to the convention or declaration.

Through ratification, a state acknowledges its commitment to implement the convention's articles and amend its own laws as necessary to comply with the convention and create an environment favorable to implementation. Ratification makes the state internationally accountable. Accession is an expression of interest by any state that is not a party to the convention. Accession allows a state to become a party after the terms of signature and ratification lapse. All procedures and commitments imposed by virtue of the ratification apply to the accession.

Convention on the Elimination of all Forms of Discrimination against Women

Article 6. State's Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.

Article 15. State's Parties shall accord to women equality with men before the law.

Egypt signed this Convention on July 16, 1980, ratified it on September 18, 1981, and subsequently expressed reservations regarding four articles: Article 2, regarding prohibition of discrimination in national constitutions and legislation; Article 16, which stipulates equality in marriage and family relations; Article 19, related to nationality; and Article 29, related to arbitration. Egypt's reservations about these articles effectively limit enforcement of the requirements against discrimination within the country.

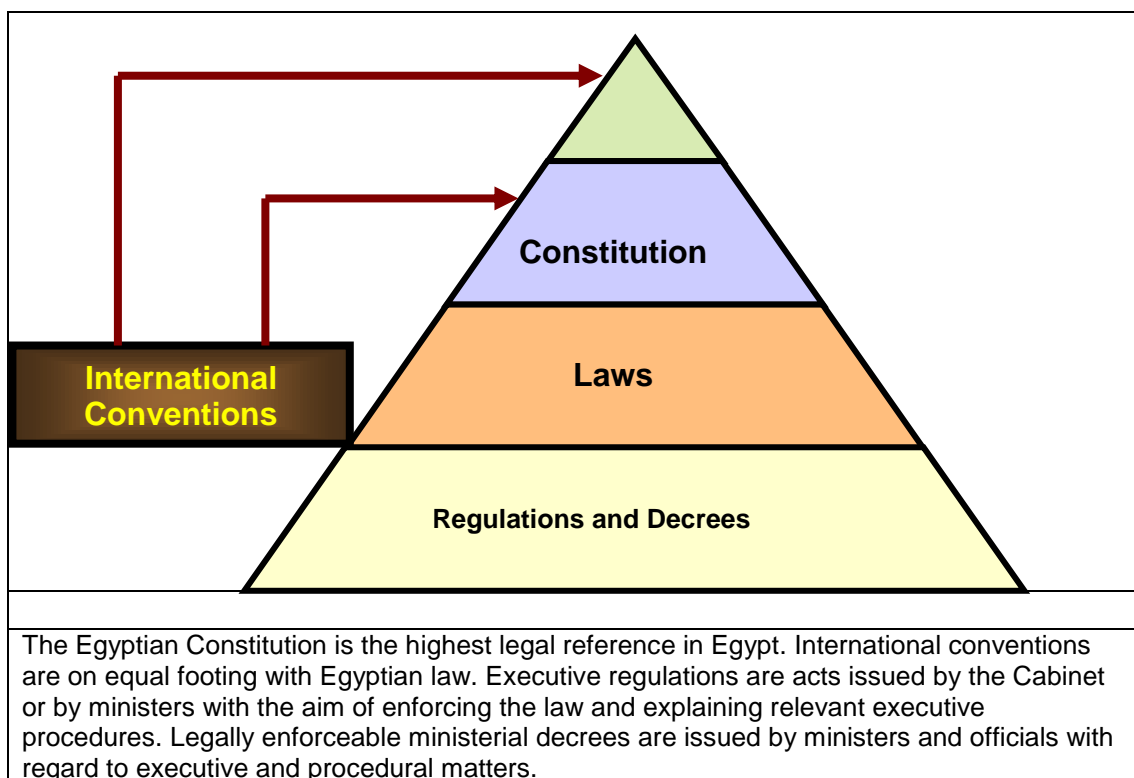
Declaration on the Elimination of Violence Against Women

The United Nations General Assembly issued the Declaration on the Elimination of Violence Against Women on February 24, 1994.

Article 1. For the purposes of this Declaration, the term "violence against women" means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm, or suffering to women, including threats of such acts, coercion, or arbitrary deprivation of liberty, whether occurring in public or in private life.

Article 151 of the Egyptian Constitution affirms Egypt's commitment to accept the international covenants as a legal reference and to comply with them. The article stipulates the following: the president of the Arab Republic of Egypt concludes treaties, and informs the People's Assembly supported with the appropriate statement. This has the force of the law after being concluded, ratified, and published according to the decreed conditions. However, cases of reconciliations, alliance, trade, navigation, and all treaties that result in introducing amendments to the land of the state, or that pertain to the law's sovereignty, or those that add a financial burden to the state treasury (which are not listed in the budget) require the approval of the Peoples' Assembly. Thus, it is affirmed that the incorporation of such covenants into the national law takes effect upon ratification by the Egyptian Parliament and publication in the official gazette. This process makes the instruments part of the Constitution. However, the Egyptian judicial system does not consider the international agreements that were ratified by the Egyptian Parliament to be at the same level as the Egyptian law. As such, they were not regarded as a legal reference, where no relevant text is prescribed by the law, particularly with the lack of regular revisions of laws and the failure to make the local laws in line with the international conventions signed by Egypt.

The above exemplifies the problems facing the Egyptian courts' and their failure to consider the international conventions as being part of the law or as a legal reference and to apply them. Only a few exceptions have occurred, and these have rarely been related to women's rights.



2.2. Regional Differences among Legal Complaints Related to Cases of Violence Against Women

The lawyers who participated in the focus group discussions referred to differences in the forms of violence described in the legal complaints received from different governorates. Some differences arise from community standards that influence both the understanding of specific acts as violence and which acts merit the filing of complaints. For example, in Upper Egypt (but not in Cairo), the rates of domestic violence are relatively lower due to family values and family authority, while the rates of violence are relatively higher in the Delta region. In the Delta, a husband's beating his wife is not considered an act of violence. Violence among siblings is considered normal in the Delta region, where bringing forward a complaint against any family member is a shameful act.

Focus group participants commented on some extreme forms of violence against women in their areas. The discussions revealed the variety of violent acts must be monitored and addressed through legal awareness and legislative reform to ensure justice for women.

2.2.1. Greater Cairo and North Delta Governorates: Alexandria, Port Said, Ismailia, Menufeya, and Daqahleya

Complaints received in Greater Cairo and Alexandria related mainly to domestic violence under the pretext of rights of discipline. Another frequent form of violence against women in both cities is sexual harassment in the street and against housemaids. In Port Said, most reported cases were related to criminal violence, such as mugging and assaulting women — the problem stems from the commercial nature of the city and the absence of street security. In Ismailia, women lack access to justice because of the cost of legal proceedings, such as tracking a husband's income. All forms of violence were apparent in Menufeya — psychological violence committed by husbands and in

workplaces, physical violence and beatings, institutional violence by some police officers who abuse their authority and refuse to take legal action, and domestic violence, including sexual molestation of daughters by their fathers. Focus group participants from Daqahleya said domestic and economic violence were prevalent in the governorate; some noted that most violence complaints were related to personal status, such as alimony and marital property.

2.2.2. Upper Egypt Governorates: Beni-Sweif, El Fayoum, El Minia, Assiut, Suhag, Luxor, and Aswan

Focus group participants from Upper Egypt confirmed that violence in these governorates stemmed from customs and traditions that restrict women's rights to make their own decisions about how they will lead their lives. Concepts of family honor also expose women to risks, including murder. In Beni Sweif and El Fayoum, complaints were related to the spousal relationship; most reported cases were of husbands assaulting wives, abducting their children, and denying mothers the right to see their children. A large number of women tolerated such violence and did not know how to overcome it. Complaints in El Minia were concentrated on domestic violence. In Assiut women have no right to choose their partners, and husbands can marry a second wife without notifying the wife or can force a wife to sign documents waiving all her rights. In Suhag, denying women the right to inheritance is a widespread practice in most villages. Other complaints reported were of husbands beating and insulting their wives and travelling abroad for up to five years. In Luxor and Aswan, the main form of violence was represented in domestic violence and lack of legal awareness, such as consent to beatings or signing blank papers.

2.2.3. North and South Sinai and Adjacent Governorates: El Wady El Gedeed and Matrooh

Bedouin character and tribal culture govern daily life and family relationships in these governorates. As a result, the Bedouin legal system has profound effects on women.

In North Sinai, focus group participants confirmed the prevalence of psychological violence against women, such as forced marriage, inability to file for divorce, denial of the right to education and official documents, and being subject to men's control under the protection of the tribal chief. In South Sinai, wives were often denied the right to administer their finances and safeguard their financial rights, even if they were working. In El Wady El Gedeed, the lack of official documents had repercussions in various forms of violence, such as unofficial marriage (*urfi*) with the approval of families and tribes, and early marriages supported by government doctors' false certification of girls' ages. In Matrooh, economic and domestic violence took the form of denial of women's right to inherit. Another problem in Matrooh was the lack of official documents, resulting in denial of access to basic services or legal rights — such as divorce or alimony — or the ability to prove a child's paternity.

2.3. Violence Against Women and Family Laws

Amendments to the Personal Status Law via Law No. 10 (2004), on establishing family courts, and Law No. 1 (2000), on the issue of a law regulating some litigation conditions and procedures in matters related to personal status, helped to solve a number of judicial

problems facing women. In particular, the new laws speed up court rulings, repeal rulings for cassation in personal status lawsuits, increase the age of custody, and establish the Family Insurance Fund. However, current practices hinder women from securing their rights in many cases.

Further, amendments that only partially addressed pervasive issues and the absence of a holistic vision for the best interests of families supported an environment of violence against women because a large portion of the public and judiciary sometimes share a deep-seated conviction that women already have far more rights than they need.

In addition, the Personal Status Law largely contributes to perpetuating commonly held conceptions regarding men's rights to exert power over and practice violence against female relatives. For example, a husband's right to discipline his wife is spelled out in Article 209 of *Shari'a* provisions on personal status: "The husband is allowed to discipline his wife in a moderate manner, for any acts of disobedience where no provision is determined in this regard. Basically, he may not beat her in a harmful manner even if he has grounds for it."

The discretionary authority granted to judges also allows them to permit violence against women, depending on how they apply the law in cases of domestic violence, divorce for compensation (*khul'*), and women's rights to such compensation.

Thus, there is diversity in acts that constitute violence and which result in harm or physical or sexual suffering. In many lawsuits related to forms of violence, disparities exist between the law and actual practices.

2.3.1. Early Marriage

De jure perspective. Egyptian Civil Law was amended by Law No. 126 (2008) to raise the marriage age from 16 to 18 years. Article 31-bis states, "A marriage contract shall not be registered for those who did not reach eighteen years of age ... anyone who registers a marriage that violates provisions of this article shall receive disciplinary punishment."

De facto perspective. Early marriage is considered an act that results in physical, psychological, and sexual suffering. Despite the importance of the actual text, it is weakened in the light of other laws, such as Article 2 of the Child Law, which states, "The age shall be ascertained by virtue of a birth certificate, national ID card, or any other official documents through the Ministries of Justice or Health."

Article 34 of the regulation of "*El Maazouneen*" (religious marriage officials) stipulates the following: the marriage official relies on the birth certificate, or any other official document that includes that date of birth in order to know the age of the couple to be wed. This occurs unless the party requesting marriage is of a status that affirms that he/she reached the legal age of marriage. Accepting a medical certificate that assesses the age of any individual "to be wed" is not required if they are registered in an educational institution or work in a job that requires submitting a birth certificate or they have proof that they are holders of passports.

In cases where the marriage official is allowed to accept a medical certificate, it should be issued by a specialized doctor from the health inspection authority. Further, there should

be a recent picture for the person requesting the marriage. The picture should be stamped, along with the certificate by the official authority that issued it, and it should have the signature of the doctor who undertook the age assessment. The person requesting the certificate should fingerprint it using his right thumb.

As for the residents of Al Nobah, Al Wady Al Gedid, the Red Sea area, Marsha Matrouh, and Sinai, it is sufficient for them to submit a certificate that proves that they reached the legal age of marriage by two of their relatives, and certified by the mayor or his deputy.

Falsifying the age assessment is made easier because “of any other document” may be submitted. In practice, this is often a certificate stating an older age that is authorized and issued by the Health Directorates in agreement with the girl’s family. This practice facilitates widespread early marriage, particularly in rural and tribal areas.

2.3.2. Unofficial Marriage

De jure perspective. The law grants only specific rights for relationships based on *urfi* marriage. The new amendments³ to the Family Law of 2001 confer *urfi* married women the same right to divorce as is permitted for official marriage. They may establish paternity and the matrimonial relationship by any means, such as correspondence.

De facto perspective. Unofficial marriage is a form of violence because it causes hurt and psychological suffering, as well as the resulting arbitrary deprivation of women’s rights. Women usually pay a high price for unofficial marriage, because the law does not provide *urfi* married women with any guarantees, although it attempts to address the consequential problems of divorce and paternity cases.

After establishing paternity, women are entitled only to claim a child’s right to maintenance and to inheritance; however, they cannot obtain any rights for themselves, such as alimony, inheritance, or pension-sharing. Some of the focus group participants acknowledged that, by establishing paternity, wives can apply for a birth certificate and then claim alimony or pension-sharing. In practical terms, though, registering a child’s

³ *Urfi* Marriage Divorce:

Article 17, paragraph 2, Law No. 1 (2000) on the issue of a law regulating some conditions and litigation procedures in personal status matters: “Lawsuits related to marriage contracts where the wife’s age is less than 16 complete calendar years, or where the husband’s age is less than 18 complete calendar years at the time of filing such may not be accepted. Unless the marriage is authenticated by an official document, lawsuits related to marriage contracts may not be accepted in case of denial [by the husband] – in the *Gazette Waqa’ea* after of August 1, 1931 – however, lawsuits related only to divorce or annulment of marriage after husband’s sworn testimony that he has refrained from marital intercourse for at least four months, as the case may be, shall be accepted if the marriage is established by any written instrument.”

This paragraph neither touches on nor requires the establishment of marriage by an official document, but rather restricts litigation arising from lawsuits related to marriage contracts in case of denial unless proven by official documents. The same restrictions are valid for lawsuits filed by a spouse or his or her heirs against the other party, and for lawsuits filed by a third party or the Prosecutor General in matters where the lawsuits are pursued by either spouse or their heirs. The restrictions are also valid in lawsuits where the direct grounds for rights are matrimonial relationships. Such rights are alimony, right to stay at husband’s home, deferred sum of money in compensation for divorce (*sadaq*) and inheritance, although these are not valid for lawsuits where the direct rights are not related to matrimonial relationships. Therefore, lawsuits related to paternity are accepted even if the marriage is not authenticated by an official document.

birth is problematic because registration offices insist — in contravention of the law — on the presence of the father or lineal member of his family (such as a grandfather or uncle) to process the child's birth certificate.

Public opinion usually considers *urfi* marriages to be limited to adolescents and youth, disregarding the large segments that marry *urfi* for reasons that they deem justifiable. Such segments believe that *urfi* marriages fulfill all requirements of the official marriage, similar to tribal practices and marriages that involve divorced and widowed spouses.

Urfi marriages that occur outside the family circle may expose women to increased risk, including murder. In cases where the matrimonial relationship is not established, DNA testing does not solve the problem, as there is no law forcing the court to demand the husband to take a DNA test to establish a paternity link for the child. However, recently some judges have started a judicial practice of requiring DNA tests to prove paternity.

2.3.3. Violence and Divorce

De jure perspective. Egyptian law considers violence as grounds for divorce. Article 6 of the decree issued by virtue of amended Law No. 25 (1929) stipulates, "If the wife claims harm inflicted upon her by the husband to the extent that it is impossible to stay in the matrimonial relationship, she may ask the judge to divorce her, who may then divorce her irrevocably if the harm is proven and he could not reach a reconciliation between them." As a consequence, a wife can obtain a divorce on several grounds, including:

- Harm, where physical or psychological violence is an indication of such harm.
- Marriage to a second woman. Despite the psychological violence incurred, the law stipulates that the first wife should prove that the harm has taken place and limits her right to divorce on such grounds to a period of one year from the date of the second marriage or from the date of her knowledge of the marriage. A husband's marrying another woman is not, by itself, considered harm that necessitates filing for divorce.

De facto perspective. When filing for divorce, women are encumbered by the burden of proof and complicated procedures if their husbands spitefully prolong litigation. Husbands may challenge divorce rulings by filing for appeal, thereby forcing women to seek divorce for consideration (*khul'*) and waive their rights so as to avoid further complicating the divorce process.

2.3.4. Divorce for Consideration (*khul'*)

De jure perspective. Article 20 of Law No. 1 (2000) states,

Both spouses may mutually consent to the divorce of the wife for consideration (khul'). If not, the wife may file for a divorce by waiving all her legally financial rights and returning the dowry he gave her, and the court orders for her divorce. However, the court may only order for divorce for consideration after an attempt to reconcile between both spouses is made by two arbitrators delegated by the court, within a period not exceeding three months and in the manner prescribed in the second paragraph of Article 18, and the first and second paragraphs on

Article 19 of the said law, and after the wife explicitly acknowledges that she hates living with the husband, that the matrimonial life cannot continue, and that she fears not to observe Allah's ordinance due to such hatred.

De facto perspective. The absence of executive regulations or publications related to the application results in conflicting judicial decisions and rulings in the application of Article 20, particularly when the husband acknowledges that the sum of money paid in consideration of the marriage contract (which is officially stated in writing in the contract) is fictitious and that he actually paid a much larger sum. In such cases, the court can refer the case for investigation and verification of the amount paid. This process prolongs the case proceedings.

In some cases, despite the presence of the husband and his consent to his wife's divorcing him for consideration, the court requests the continuation of the case proceedings, including arbitration procedures, offer for reconciliation, and other measures. This contravenes the concept of mutual consent of both spouses to *khul'*.

2.3.5. Financial Rights and Alimony

De jure perspective. Women have their own independent financial estate and ownership even after marriage. Without exception they have the same rights and responsibilities as men.⁴

The law limits a number of women's financial rights after divorce, such as alimony (*edda*, or compensation during the period of retreat that the divorcée must observe before she may remarry), compensation paid to a divorced wife of an unconsummated marriage with no stipulated bridal money (*mot'a*), and deferred payment as a divorce compensation (*sadaq*), if mentioned in the marriage contract, with a complete separation between the financial estates of the husband and wife, as the Egyptian law does not recognize a joint financial estate or a provision obliging women to bear any degree of financial responsibility toward the family.

De facto perspective. In reality, a wife has no independent financial estate in most cases, and a husband is enriched by his wife's work and contributions to the household. No legal texts stipulate that property gained by the husband during the marriage must be divided to compensate the wife, and no texts state a specific form of compensation for divorce or other risks that a woman may undergo.

2.3.6. Refusal to Pay Alimony

Refusal to pay alimony is one of the most common forms of psychological and economic violence despite the numerous legal amendments⁵ intended to mitigate its impact.

⁴ These rights are granted through general rules in the Civil Law and not specific articles, because the Egyptian laws are not gender-sensitive. Instead, they follow the Civil Code, which confirms that "the legal rule is a general rule."

⁵ Amendments introduced to the Family Law No. 10 (2004), which provide women with some mitigation:

Article 2. The capacity to litigation in personal status matters on legal administration shall be acknowledged to any *compos mentis* person who has attained 15 complete calendar years, and a legal representative will act on behalf of any person who lacks, wholly or partly, legal capacity. In case such person has no

If procedural problems related to the implementation of such amendments arise, they often impede prevention of violence and may worsen the situation for women. For example:

- The ineffective procedures of ruling for temporary alimony prescribed by law as from the date of filing the case, the duration of such is 15 days, so as to protect women from financial need and becoming a subject of exploitation of any form.
- The long duration of the case proceedings related to imprisonment with the purpose of fulfilling the duty of alimony payment.

The punishment of imprisonment stipulated in Article 293 of the Penal Code for refusal to pay alimony required by a judicial order is not enforceable. Application is a lengthy process that starts with the wife filing for alimony and receiving a final order. Then, if the final order is not executed, she must file an imprisonment order to secure her rights. This process takes about a year, but the resulting imprisonment is for only one month.

2.3.7. Family Insurance Fund

Law 11 (2004) established the Family Insurance Fund to help the poor obtain minimum alimony payments. The law helps women whose husbands fail to pay alimony to collect what they are owed through a fund set up to insure the family. Although the law applies to all, constraints on carrying it out are caused by the lack of standard regulations, rules, and administrative orders issued to all the bank that are to distribute the funds.

The maximum payment is LE500, and there are limits to what the Fund covers. Exclusions include provisional alimony, frozen assets, deferred compensation for divorce (*sadaq*), divorce compensation (*mot'a*), and school fees. Orders issued by settlement offices affiliated with the Family Court are not executed, and complex procedures have

representative, or has a different view on the way the litigation proceedings are pursued, in contravention of or in opposition to the opinion of his representative, the court shall appoint a litigating custodian, automatically or as per the request of the Prosecutor General or of any other party.

Article 3. An attorney-at-law may not have to sign personal status bill before courts of summary jurisdiction, and in the event a case is brought forward without an attorney signing its bill, the court may, when necessary, delegate a defense attorney for whom the fees shall be determined in accordance with the ruling issued in the case and borne by the public treasury, so as to provide judicial assistance as prescribed in Law No. 17 of 1983 on issuing an attorney's law. Cases for alimony and related matters shall be exempted from all sorts of remuneration and expenses and all judicial fees in the litigation proceedings.

Article 4: Within the context of preparing the case for sentencing, the court may draw the attention of the litigants, in person, to the requirements for smooth case proceedings, and grant them time to provide the report for a period not exceeding two weeks. A selection of the delegate shall be made from the social worker list issued by virtue of a decree from the Minister of Justice and according to the recommendations/nominations of the Minister of Insurance and Social Affairs.

Article 5. The court may, subject to considerations made for public order and morals, decide to take cognizance of matters related to personal status in the deliberation room with the attendance of members of the Prosecution General so long as they are represented in the case, and may issue rulings and decisions in a public hearing.

limited the Fund's ability to effectively resolve alimony problems, which can constitute a form of psychological and economic violence.

Other forms of psychological and social violence that obstruct women's access to rights stipulated by the law are discussed below.

2.3.8. Child Custody and Maintenance and Other Issues

De jure perspective. Law No. 4 (2005) specifies that mothers are entitled to retain custody of children until they reach the age of 15, after which the judge shall give the children the choice of staying with their mother.

De facto perspective. The law does not provide adequate guarantees to allow women to obtain child maintenance payments, prevent deception, and avoid the considerable economic and psychological suffering caused by prolonged alimony proceedings. As a result, some women may not be able to provide a home for their children or cover their expenses; thus, the inability to attain legal equity can cause the worst form of deprivation.

2.3.9. Child's Paternity

De jure perspective. Articles 19 and 20 of the Civil Status Law No.143 (1994) and Article 15 of the Child Law No.12 (1996) all stipulate that: "The birth of a child should be reported within 15 days from the date of birth. The persons entrusted to report the birth of their child are:

1. The child's father, if present;
2. The child's mother, on condition that the marital relationship is established in the manner prescribed by the executive regulation."

De facto perspective and related issues. Health offices do not accept birth reports from a mother without a supporting document — even if she submits her marriage certificate, the father's identity card, and a letter from the hospital — instead requiring a child's father, father's brother, or paternal grandfather to report the birth. As a result, a father may seek revenge or coerce a mother to waive her rights or perform certain acts in exchange for not refusing to report the birth of a child or for obtaining a birth certificate.

Using children against their mothers or depriving mothers of custody are among the many forms of psychological violence against women. The unequal application of rules about registering births may exacerbate custody-related problems and restrict mothers from exercising their parental rights.

2.3.10. Educational Custody

Fathers with custodial rights may compromise their children's educational future out of spite toward the mother. This matter is addressed by amendments to Child Law No.126 (2008). The second paragraph of Article 54 stipulates that educational custody shall be granted to the parent who has child custody. However, lack of awareness of this article is still impeding women from enjoying this right. Also, in some cases, misuse of educational

custody is a problem, worsened by women's lack of awareness of their ability to withdraw custody.

2.3.11. Loss of Matrimonial Home after End of Custody

When the term of child custody ends, a divorced woman loses the matrimonial home. This loss is a form of psychological violence and deprivation of the right to personal security, especially when the woman has spent close to twenty years serving the family. Instead of being appreciated for all her exerted efforts, she faces a life on the streets, particularly in more recent times when the social composition of families is different and the extended family support is lacking. This threat can drive a woman to tolerate domestic violence rather than taking the risk of leaving an abusive husband and becoming homeless.

2.3.12. Abduction of Children in the Mother's Custody

With regard to child abduction, Article 292 of the Penal Code states,

Any of the two parents or grandparents who did not deliver the child or the grandchild to the person who has right to custody, by virtue of a court order issued in regard of the child's custody or upkeep, shall be punished by imprisonment for a period not exceeding one year or by a fine not more than LE500. Furthermore, the same punishment applies to any of the two parents or grandparents who abduct the child, personally or by the use of another person, from those who have right to custody or upkeep by virtue of a judicial order, even if it is committed without use of deception nor coercion.

Thus, the lawyer could resort to the attorney general for family prosecution affiliated to the family court — in case of abduction — to submit a request to remove the child from the abductor, and receive a decree from the attorney general to remove the child by coercive force. If this decree cannot be enforced, the person could resort to the specialized criminal court and file a felony lawsuit in accordance with article 292 of the Penal Code. However, this text is rarely used by those filing lawsuits, and thus, the article is suspended, in addition to other difficulties. In a lot of cases, the mother relies on the decree issued by the attorney general without resorting to enforcing the text stipulated by article 292, since application of this decree is more expeditious.

Consequently, in cases of abduction from a mother who has custody, she can submit a request for the child's return, and the Family Court attorney can set a date for the execution of the decision. However, if the mother's custody is not granted by a court order, enforcement of Article 292 is difficult, and the abduction is not considered a crime. Sometimes the Family Court attorney may issue a summary decision allowing a mother to take actions with regard to the children in her custody. Such decisions can be made quickly, but they may not eliminate the risk that a father might take the child abroad: a mother cannot stop her child's father from travelling with an abducted child, and only a father has the right to apply for a passport for the child.

2.3.13. Visitation

Focus group participants were of the opinion that the Law of Visitation⁶ opens the door to violence against women and encourages fathers to undertake child abduction. Therefore, it is important to find an innovative solution to the issues related to child visitation and custody, a solution that contributes to the mother's stability with her children and asserts the role of the father in the children's lives, so that parents make decisions affecting a child's life jointly (particularly with regard to travel). To reduce the possibility of abduction and removal from Egypt, children who are the objects of litigation between parents should be listed with the passport authority so they cannot be taken out of the country.

Securing a place for visitation is also necessary to ensure that a mother is not assaulted in front of her children during visitation. Emphasis must be given to the rule indicating that each right has a corresponding duty. Thus, the right of visitation granted to parents should be linked to ensuring decent lives for the children and fulfilling the financial obligations related to the types of alimony.

2.3.14. Procedural Issues that Constitute Psychological Violence

Many procedural problems exacerbate the Family Law issues that women must confront.

Burden of proof. The burden of proof is an impediment that, in most cases, jeopardizes a woman's legal rights. In all personal-status cases — particularly, alimony cases — the burden of proof is imposed upon the wife. Before a judge issues an alimony order, the wife must provide proof of the husband's earnings, and she must then prove that the husband is able to pay the frozen sums that have accrued.

Execution of orders. Article 293 of the Penal Code regarding the execution of alimony orders states:

Any person who can afford to pay, by virtue of an enforceable judicial order, to pay alimony to a wife, relatives, or relatives by affinity, to pay custody or nursing fees, or home rent, and refuses to pay for a period of three months subsequent to

⁶ *The right to child visitation.* Paragraphs 2, 3, and 4 of Article 20 of the Decree Law No. 25 (1929) and amended by Law No. 100 (1985) state: "Both parents have the right to child visitation, and the grandparents in the absence of the parents. If visitation cannot be organized by mutual consent, the judge shall do so, provided that it happens in a place not harming the child psychologically. The visitation order may not be coercively executed, however, if the custodial person refuses to execute such order without an excuse, the judge shall issue a warning, and in case of recurrence, he may issue an enforceable order to transfer the child custody temporarily to the second person entitled to such, for a period to be determined by the judge."

Place of child visitation. The child visitation order shall be executed in one of the places determined by the Minister of Justice after the approval of the Minister of Social Affairs, in case of disagreement between the custodial person and the other party to whom the order for child visitation is issued on a different place. In all cases, it is required that it is a peaceful place for the child (Article 67).

Presence of the process-server during execution. The process-server or the administrative body shall oversee the execution of orders. The Minister of Justice shall issue a decree for the procedures to execute the orders and decisions issued for delivering, attaching, visiting the child, or providing homes for him, by the person entrusted to do so (Article 69).

receiving a reminder, shall be punished by imprisonment for a period not exceeding one year and/or a fine not more than LE500.

However, problems related to execution of court orders can prevent women from obtaining that to which they are legally entitled. A woman may receive an alimony order for herself and her children, but complications and unofficial costs for the procedures can impede execution of the order. Considering that evidence is not part of the general system of the law, this could change the burden of proof to proving the man's income.

Serving judicial notices. Because a woman is, in most personal status cases, the complainant, she has the burden of serving notice upon her husband. The wife often is unable to do so because her husband avoids her or cannot be found. If her husband is abroad, she faces the additional problem of dealing with serving notice according to another country's process.

Offices for dispute settlements. Venues for dispute settlements add many issues to the process because of problems with physical facilities, staffing, and procedures. The offices do not provide areas in which women's privacy can be safeguarded. The binding power of the settlement committees is absent, making it a burden imposed upon the woman. Furthermore, settlement office employees often are not well-trained in hearing or handling problems properly, and the executive forms issued by settlement offices are not considered as official documents in alimony cases and are not recognized by Nasser Bank. Finally, no order protects women from any violence that may occur during the discussion, and as a result, they may be subject to violence inside or outside the Family Court where the discussions occur.

2.4. Violence Against Women and the Penal Code

The legal texts in the Penal Code are abstract in nature, whether with regard to filing a criminal lawsuit or a civil prosecution arising from the criminal suit. In the field of criminal proof, the testimony of a female witness is equal to that of a man, as stated in the Criminal Procedures Law.

2.4.1. Domestic Violence

De jure perspective. The Penal Code does not discriminate between violence that occurs in private or in public. Instead, the Code criminalizes violence regardless of the perpetrator or the location of the crime. Therefore, domestic violence is subject to the general rules prescribed in the Penal Code. For example the rules related to beatings in Article 242 state that if the beatings or injury do not reach the degree of seriousness stated under the aforementioned two articles, the perpetrator shall be punished by imprisonment for a period not exceeding one year or a fine not less than LE10 and not more than LE200.

De facto perspective. The legal system opposes violence whether it is committed against women or men. Application of the law is problematic, however, because of a fundamental principle established by the Court of Cassation that the family is above the law. Violence against women often goes unpunished because of a judge's discretionary power, special considerations, and societal culture. Examples of such violence are crimes of honor. No

laws address these crimes, and punishment of perpetrators is often mitigated when violence was committed under the pretext of protecting honor.

2.4.2. Concept of “Discipline”

The concept of discipline is drawn from interpretations of the Islamic *Shari’a* and is often used to justify domestic violence — particularly, by husbands against their wives in beatings and by fathers against their daughters in crimes of honor. Article 7 of the Penal Code stipulates that: “the provisions of the said law may not replace in any way the personal rights conferred by the dignified *Shari’a*.”

In many cases, domestic violence is not considered a crime. Even when the violence is proven, most provisions related to domestic violence are not commensurate with the injury inflicted upon a woman. Article 60 of the Penal Code states: “The provisions of the Penal Code may not be enforced on any act committed in good faith, in accordance with a right prescribed by virtue of *Shari’a*.”

Cassation rulings establish that the right of discipline is one of the reasons for permissibility. “It is determined that discipline, if it is a right to the husband which permits harm, nevertheless may not exceed light harm. If the husband exceeds this limit and causes any harm to his wife’s body, he shall be punished by law for the same, even if the effect caused to the wife’s body does not exceed minor abrasions.”⁷

2.4.3. Mitigated Sentences

Focus group participants confirmed that mitigated sentences are barriers to ending violence against women. The law does not protect women from domestic violence, such as beatings or ejecting a wife from the matrimonial home. An act of violence is established by lodging a complaint to the concerned bodies. Police stations issue reports based on victim’s accounts recorded by police or a district attorney, then the victim receives a medical examination and the report is added to the police statement, which is forwarded to the attorney general’s office for referral to the court. Evidence and witnesses’ accounts can be used in the case. In practice, however, when a woman reports domestic violence and submits a medical report, the eventual sentence is too light to deter her husband from repeating the behavior. The practical reality is that many of these cases are not brought to trial. If a trial occurs, the sentence is mitigated in consideration of the marital relationships and the judge’s attitude regarding the right of the husband to discipline his wife.

2.4.4. Homicides Based on Crimes of Honor

De jure perspective. Egyptian law does not address so-called “crimes of honor” or the sentencing of perpetrators of these crimes. Article 17 of the Egyptian Penal Code⁸ gives

⁷ (11/1/1981 Cassation decisions year 32 – 149- p.867)

⁸ *In criminal articles, if the circumstances of the crime for which a lawsuit is filed require the judge’s leniency, the sentencing may be changed as follows:*

- *Death sentence to life or aggravated imprisonment sentence.*
- *Life sentence to aggravated imprisonment sentence or imprisonment sentence.*

judges the discretionary power to impose lenient sentences without regard for the type of crime committed.

De facto perspective. Honor crimes against women go unpunished because of a combination of factors: judges' discretionary power, special consideration, and community culture. Judges' reasons for mitigating sentences for honor crimes are often beliefs that the defendant was under psychological pressure, he eliminated some shame caused by the victim to her family, and/or the victim violated the prevailing social values.

One focus group participant spoke of a girl from Imbaba who was killed by two of her brothers because they suspected she was not a virgin. They were charged with four crimes: willful manslaughter with intent, molesting a body after killing, using a sharp weapon without a permit, and hiding a body after the killing. The brothers admitted the crimes in court and stated that they were motivated by honor. The forensic report proved the girl was a virgin. Nevertheless, the judge sentenced the admitted killers to only 10 years imprisonment with labor. The sentence was reduced despite of the number and seriousness of the crimes.

2.4.5. Justification of Homicide (Crime of Passion)

De jure perspective. Article 237 of the Penal Code states that:

The husband who surprises his wife in the act of committing adultery, and instantly kills her and her partner, shall be punished by imprisonment, instead of the penalties determined in Articles 234 and 236 of the Penal Code.

A wife who kills her husband in the act of adultery does not receive a mitigated sentence; rather, she is charged with the felony of murder, punishable by life in prison or by forced labor imprisonment for a period not exceeding 15 years, in accordance with Article 234.

De facto perspective. The reason for mitigation of punishment in these cases, as viewed by lawmakers, is that the husband has only been provoked by the gravity of the incident and its effect on his and his family's honor. This excuse applies exclusively to a husband, offering a license and justification for killing his wife.

2.4.6. Rape

De jure perspective. Article 267 of the Penal Code defines rape as a punishable felony.

Anyone who has intercourse with a female against her will is punished by temporary hard labor. If the perpetrator is one of the victim's principal relatives, or those in charge of raising her or who have authority over her, or if she is his paid servant, he shall be punished by lifetime hard labor.

-
- Aggravated imprisonment sentence to imprisonment sentence or detention sentence for a period not less than six months.
 - Imprisonment sentence to detention sentence for a period not less than three months.

Thus, the punishment is more severe if the rapist is responsible for the victim. Furthermore, Article 291 of the Penal Code, which exempts the perpetrator from punishment if he marries his victim, does not apply.

De facto perspective. Investigations — and investigators, who often lack training — are not sensitive to the victim's gender. As a result, victims are questioned in ways that may make them uncomfortable or violate their privacy and that of their families. Physical examinations for virginity also may discourage the victim from reporting the crime. Focus group participants confirmed that many rape cases are not investigated because the lack of confidentiality causes public scrutiny, which exerts social pressure on the victim and her family. This exposure is an additional disincentive to reporting rapes, and it encourages the victim to marry her attacker to avoid shame.

Marital rape is considered a crime, but no punishment is prescribed because Article 60 excludes legal interference with acts permitted through *Shari'a* (Section 1.4.2).

2.4.7. Lack of Privacy for Victims of Sexual Crimes which Constitutes Psychological Violence that Could Make the Victim Refrain from Resorting to the Judicial System

In police stations, reports are received in a “shift office,” where victims of rape or sexual harassment are obliged to describe the incident in front of anyone in the area. Officers who take statements and investigators do not receive specialized training in investigative methods, collecting and interpreting evidence, or making psychological assessments. Victims may be asked questions that they cannot answer. In most cases, for example, they are required to know the offender's identity and data.

The same procedures are used at the attorney general's office, where victims also do not have privacy. Neither the Procedures Law nor prescribed processes for the attorney general's office address the handling of these cases. Many victims of rape and sexual harassment decline to report the incidents to protect their privacy.

2.4.8. Incest

If a woman or underage girl is raped by her guardian, how to bring suit becomes an important question. The incident must be reported within three years of occurrence. Focus group participants noted that the victim's mother (or any other person) has the right to report the incident, and these reports are accepted. However, if the report is made a long time after the rape, it is more difficult to prove. Such delays may cause the victim to lose her rights. In addition, if the victim is unable to identify the accused as a relative, he cannot be prosecuted for incest.

2.4.9. Marriage after Rape — Forcing a Victim to Marry the Perpetrator

Article 291 of the Penal Code no longer exempts a perpetrator from punishment if he marries his victim. Nonetheless, a victim who attempts to report the incident may be made to state that it was the result of a love relationship rather than a rape. This may occur for several reasons. First, the victim and her family may decide to resort to marriage rather than succumb to social pressure and disapproval if she is not a virgin.

Second, intrusive investigative procedures and medical examinations may make marriage seem preferable to reporting the incident as a rape.

2.4.10. Sexual Harassment

De jure perspective.

Article 268 of the Penal Code states:

Any person who commits an indecent assault, by force or threat, or attempts to commit such an act, shall be punished by hard labor imprisonment for a period ranging between three and seven years. In case the age of the victim against which such crime is committed did not exceed 18 years, or the offender is one of those prescribed in the second paragraph of Article 267, the term of imprisonment may be brought to the maximum period determined for the provisional hard labor. Where both of the above-mentioned conditions apply to the crime, the imprisonment shall be hard labor for life.

Article 278 of the Penal Code prescribes that: “Any person who commits an indecent and shameful act in public shall be punished by imprisonment for a period not more than one year or a fine not exceeding LE300,” and Article 279 mandates that “the same punishment shall be imposed upon any person who commits an indecent act with a woman, even if not in public.”

De facto perspective. The Egyptian Penal Code neither defines sexual harassment nor establishes methods of proof. In the absence of these definitions, establishing sexual harassment or indecent assault is not possible. The same difficulties of investigation and proof apply here as for rape.

2.4.11. Prostitution

De jure perspective. Article 9(c) of Law No. 10 (1961) on combating prostitution prescribes the punishment of any person who practices prostitution or debauchery, without apparent discrimination against women.

De facto perspective. In the application of the law, women are usually punished by a fine and imprisonment for a period from three months to three years. Their male associates are not punished. In practice then, women are considered the only wrongdoers, and their male associates may testify against them. Lawmakers do not consider the behavior of these men as criminal, although their involvement helps to establish the guilt of women. This confirms a view of women’s inferiority and entrenches the dominant male view that women are the source of temptation and evil and confirms the belief that men have power over women’s bodies — justification for restricting their movements and practicing violence against them. The enforcement of these laws needs to be reviewed, as do the provisions of the judiciary system.

2.4.12. Adultery

De jure perspective. As with mitigation of murder charges discussed in Section 1.4.5, the penalty for adultery by a husband differs from adultery by a wife. Article 274 of the Penal

Code punishes an adulterous wife with imprisonment for up to two years, and Article 277 punishes an adulterous husband with imprisonment for no more than six months. Although the act of adultery is the same for either gender, the definition of the crime differs. For the law to impose punishment upon the husband, the act has to be committed in the matrimonial home; there is no such restriction for a wife. Thus, if a husband commits adultery anywhere else, there is neither a crime nor a punishment.

De facto perspective. The unequal standard for adultery has negative implications, not only because of the social message it carries, but also because of the implicit threat to the matrimonial home through implied encouragement of the husband to act in this manner. Banning the husband from committing adultery only in the matrimonial home means that adultery outside of the borders of the matrimonial home is not considered a crime.

2.4.13. Denying Paternity

Denying paternity is the equivalent of a man accusing his wife of adultery. Slander committed by one spouse against another is no different from slandering any other person, yet the law does not punish a man who denies the paternity of his children, even if it is established later that he is the father. A wife cannot sue her husband for slandering her, as it is legally incriminating, which jeopardizes her legally.

2.4.14. Human Trafficking

De jure perspective. A number of laws have been enacted to respond to the phenomenon of human trafficking, including Public Places Law No. 371 (1956), Law No. 103 (1976), and Child Law No.12 (1996). Furthermore, the Prime Minister passed Decree No.1584 (2007) in connection with the formation of the National Coordination Committee for Combating and Preventing Trading in Persons. The decree concerns the development of a national action plan committee, and the preparation of an annual report on national efforts to confront the issue of trafficking.

The Child Law 126 /2008 article 291:

It is prohibited to violate the right of a child to protection from trafficking or from sexual, commercial or economic exploitation, or from being used in research and scientific experiments; the child shall have the right to awareness and be empowered to address those risks.

Without prejudice to any stronger penalty prescribed by another law, shall be penalized with forced labor for a period not less than five (5) years and a fine of not less than fifty thousand (50,000) pounds, and not exceeding two hundred thousand (200,000) pounds, anyone who buys or sells a child, or offers a child for sale, or anyone who delivers or accepts or transfers a child as a slave, or exploits the child sexually or commercially, or exploits the child in forced labor, or other illegal purposes, even if the crime is committed transnationally.

Shall also be subject to the same punishment anyone who engages or induces in the said acts aforementioned in the preceding paragraph, even if the crime was not committed as a result of said acts.

Without prejudice to the provisions of Article 116 bis of the Child Law, the penalty shall be doubled if committed transnationally by an organized criminal group.

De facto perspective. As a State party to regional and international treaties that criminalize trafficking in women and exploiting them through prostitution, Egypt is concerned with combating this phenomenon. Nonetheless, there is still a need for legislative review and executive procedures for monitoring such activities as marriages contracted between the daughters of families in rural areas and rich men from oil-producing countries. Focus group participants commented that these relationships are often unsuccessful marriages undertaken for financial reasons, and that they “constitute a new form of trafficking in girls under the pretext of official legal marriage.” To curb the impact of this problem, the Ministry of Social Solidarity provides care for “mothers out of wedlock,” who are placed in welfare institutions — although, these institutions are still in need of further support and care.

2.5. Labor Law and Violence Against Women

2.5.1. Sexual Harassment

Two main principles in the Egyptian Labor Law govern the rights conferred upon women. First, citizens have equality in their work, and second, women’s duties to their families must be in line with their work outside the home.

De jure perspective. The Labor Law does not describe any criminal punishment for verbal or physical violence or sexual harassment. However, disciplinary and progressive punishments are prescribed according to the type of act committed; if the act is a crime, the provisions of the Penal Code are applicable.

The articles of the Unified Labor Law do not criminalize these acts. Article 56 states:

The employee shall thoroughly and honestly fulfill in person the duties entrusted to him, according to what is prescribed by law, in the working regulations, and individual and collective work contracts. He shall achieve such duties in the specified time and with due diligence.

De facto perspective. Sexual harassment is not a crime according to the Labor Law, and because no specific reporting procedures are provided, women cannot report such incidents. Focus group participants commented that: “Many working women are subject to harassment from their colleagues and superiors at work. Sometimes they may be exposed to harassment when their superiors misuse their power, and women do not wish to lose their jobs. Women who report (but cannot prove) harassment in the workplace are subject to many forms of discrimination. Consequently, the perpetrator “wins” and the woman is ostracized. Sometimes the complaint is referred to the very person who committed the act, and colleagues decline to testify against him out of fear that they may lose their jobs. This exacerbates the situation.”

Exception to protection of female farmers and women in “household careers.” Egyptian law deprives female farmers of protections accorded to other women. Rural women are responsible for more than 40 percent of agricultural production (work they perform in

addition to household chores). However, in 2000, 20 percent of female laborers overall and 34 percent in rural areas worked without cash compensation. Without receiving wages, these female workers are generally deprived of legal protection under the applicable laws. No legislation regulates women's conditions in the farming sector or in marginal work (working as housemaids, for example). This affects women's ability to provide for their families and pay for health care, insurance, and other services. The situation is even worse when these women are disabled or divorced, or if the family lacks any other breadwinner.

2.6. Violence Against Women and the Civil Code

De jure perspective. Civil Code provisions provide for equal civil rights for men and women, in all its chapters and without exception. Women retain independent financial estates and property even after marriage. They undertake the same duties and receive the same rights as men, with no exception.

De facto perspective. Discrimination against women usually occurs in violation of their rights. This is due to a lack of gender sensitivity and generalization of the legal rule — in other words, equal treatment of women that fails to safeguard their rights, or fails to impose consequences when women are deprived of their rights. Focus group participants noted a common example of failure to apply the law and distribute rights fairly: denying women the right to inheritance.

The absence of such gender sensitivity and the lack of addressing the legal consequences of denying rights could be called a “silent violation;” it includes lack of insurance protection for women who, influenced by societal culture and the will of their families, waive their right to personal and financial independence. In a culture that praises women for staying at home to look after their children and household or for devoting their lives and income to their family, they pay the price for the absence of protection from a range of risks, including physical harm and divorce.

In particular, women have limited social and professional opportunities. Besides, the law does not provide them with insurance, as the insurance contracts stated in Articles 747 to 771 of the Civil Code in the Third Section of the Fourth Chapter of the Second Book do not include any articles for the protection of women or the more vulnerable categories in the society. If provided, this insurance would be a sort of compensation given to women for the extreme harm they suffered, even if it is on a temporary basis, so that they can cope with life.

Focus group participants also commented that the absence of a wife's independent financial estate often results in enriching her husband at her expense. Separation necessitates dividing the property acquired by the husband during the marriage to compensate the wife, particularly in the absence of clear regulations concerning divorce or compensation for risks.

2.6.1. Inheritance and Transfer of Property

De jure perspective. The rules and procedures for inheritance and transferring estates are determined in accordance with the Personal Status Law and the Civil Code, which determine a woman's share and the method of dividing estates.

De facto perspective. Focus group participants commented on the practical reality that women are unable to obtain inheritance in many cases. In Upper Egypt, so-called “*radwa*” (satisfaction) provides women with a modest sum of money so that they do not claim their inheritance, and women are forced to accept such an amount because they cannot access justice or their rights for a number of reasons, including social pressures and lengthy litigation procedures. No legal punishment is imposed on those who deny a woman’s right to inheritance.

2.6.2. Right to Victim’s Compensation

De jure perspective. Article 251 of the Penal Code states that: “A person who suffered from any damage is entitled to bring a lawsuit as a civil rights plaintiff before the court where the criminal case is heard until a decision is issued to close the pleading according to Article 275, and such a case may not be accepted before the court of appeal.”

De facto perspective. In reality, the rules of evidence and permissibility (right to discipline) remain a barrier to women pursuing their rights. Civil evidence relies largely on documentary proof, and a woman often has difficulty securing the necessary documents to prove her case (such as police and medical reports). In addition, victims can only seek compensation if the accused is convicted, and criminal cases impose a heavy burden of proof on the prosecution — a burden that is equal in its difficulty to the burden of civil proof and is not limited to bringing witnesses to testify.

2.6.3. Insurance

Insurance contracts quote the clauses applicable to insurance prescribed in Chapters 3 and 4 of the second volume of the Civil Code, in which Articles 747 to 771 do not contain any provisions providing women, or the most vulnerable categories of society, with protection, which is a sort of compensation — even temporary — for the extreme harm inflicted upon them, so that they can cope with life.

2.6.4. Conflicts in Laws

De jure perspective. Article 12 of the Civil Law states that: “In regard to objective requirements for the marriage validation, reference shall be made to the law of both spouses.” Also, Article 13.1 states that: “The law of the State to which the husband belongs at the time of concluding the marriage contract shall be applicable with regard to consequences of such marriage, including the financial matters. Article 13.2 states that: “As regards divorce, the law of the State to which the husband belongs at the time of divorce, shall be applicable. Divorce and separation shall be pursuant to the law of the State to which the husband belongs at the time of the case proceedings.” If the husband is Egyptian, Article 14 states that: “In matters prescribed in the foregoing Articles, if one of the spouses is Egyptian at the time of concluding the marriage contract, the Egyptian law shall only be applicable, with the exception of the provision of the capacity to marry.”

De facto perspective. If spouses are of different nationalities and the laws governing the spouses differ, the law of the husband’s state is applicable. If the husband is Egyptian, application of Egyptian law results in discrimination against women and reinforcing Egypt’s male-dominated culture. If the wife is Egyptian, she may be subject to arbitrary

laws, such as those in the Gulf States. To impose greater fairness, the law should stipulate that the law of the country where the marriage contract was concluded shall be applicable in case of conflict of laws.

3. LOCAL EXPERIENCES IN USING THE LAW TO COMBAT VIOLENCE AGAINST WOMEN

Egypt exerts considerable effort to improve the legal and regulatory framework regarding violence against women. Specifically, the NCW and NGOs aim to lead reform efforts by proposing new laws or legislative amendments and promoting new legal concepts. They also provide legal protection for women who are victims of violence. This section describes some lessons learned from their experiences.

3.1. Proposal of a Draft Law on Combating Violence Against Women (El Nadeem Center for Treatment and Psychological Rehabilitation)

The El Nadeem Center for Treatment and Psychological Rehabilitation drafted a bill (dated March 16, 2008) for combating violence against women in the context of an alliance of 89 NGOs throughout Egypt. The bill was disseminated to elicit expressions of public opinion. It was submitted to the People's Assembly, which made no response.

Lessons learned. The bill was a significant but unsuccessful attempt to address the issue of domestic violence in the forum of public opinion. The 89 participating NGOs made limited contributions to the discussion and did not fully contribute to drafting the bill. Thus, the process remained somewhat idealistic. The bill suffered from a lack of legal insight and disregard for the rules of evidence outlined in the Criminal Procedures Law. These weaknesses — particularly in the articles related to marital rape — were noted in aggressive media and popular campaigns. Ultimately, this attempt had a negative effect on both public opinion and other efforts.

3.2. The “Safe Streets for All” Campaign — Creating a Law to Combat Sexual Harassment (Egyptian Center for Women's Rights)

The “Safe Streets for All” campaign is concerned with tackling sexual harassment in the streets through legislative and cultural changes. The Egyptian Center for Women's Rights distributed 2,800 questionnaires in October 2005 to determine the extent and characteristics of the problem. The campaign helped to raise women's awareness of the meaning of sexual harassment, the fact that it is a crime, and their legal rights. The campaign broadly encouraged all members of society to help prevent or stop sexual harassment, sought to improve executive and legal mechanisms to protect women, and encouraged development of a legal clause defining sexual harassment and appropriate punitive measures.

The campaign is based on an alliance of 25 local organizations and more than 150 young volunteers of both genders. Media sponsorship led to coverage of the issue.

Lessons learned. Development of the campaign took about two years because of the need to conduct field studies to obtain accurate information. Focus groups chose slogans that avoid strong judgments or accusations, such as “*Let's sit down and talk,*” and “*What did*

you accomplish by being a nuisance?” The campaign successfully drew the attention of the public to the issue of sexual harassment and the need for relevant laws.

3.3. “Change the Personal Status Law” Project (Alliance of Egyptian Women’s Rights Organizations)

This project seeks to build on the experiences of women’s rights organizations and empower them to form a strong coalition to advocate jointly for women’s rights in Egypt. A limited number of organizations joined the coalition, including the Alliance of Arab Women, the Center for Egyptian Women’s Legal Assistance, the Egyptian Family Development Association (Aswan), the Better Life Association for Development (El Menya), the New Women Association, and the Coptic Evangelical Organization for Social Services. The project seeks to ensure a legal and social environment that supports women and children who are harmed by unofficial marriage. Its activities include planning and executing campaigns calling for changes in laws and behaviors related to unofficial marriages.

Lessons learned. Although the project focused on determining objectives and dividing tasks among the partner organizations, expected results were not achieved after more than 18 months. Cooperation between the organizations failed because of the absence of clear objectives and the necessary collaborative skills.

3.4. Proposal of a Draft Personal Status Law (Center for Egyptian Women’s Legal Assistance)

The Center embarked on a national project to change the Personal Status Law for Muslims and encouraged dialogue with the Coptic Church to effectuate the statute of 1938, which allows divorce on numerous grounds. This would establish greater justice for Muslim and Christian women. The project also calls for training to qualify judges and prosecutors in addressing sensitive issues and training police to deal more effectively with family problems.

Lessons learned. The project reveals a strong desire to improve the status of women. Significant steps to attain its goals include monitoring and analyzing the application of the Litigation Procedures Law in personal status matters, particularly *khul’*. Nevertheless, the project did not change social, cultural, and political contexts that support the Litigation Procedures Law. The research did not include adequate study of the laws subject to unification (Personal Status Laws for Muslims and the Statute of 1938), provoking negative opinions from both Muslims and Copts.

3.5. Some Local Experiences in Legal Protection and Raising Awareness

3.5.1. The Ombudsman’s Office (National Council for Women)

The Ombudsman’s Office has locations in a number of governorates and is establishing additional branches at NCW offices. It monitors and follows up on complaints related to discrimination against women. The Office analyzes, classifies, and reports the complaints to concerned bodies to encourage final solutions. It also raises the issues as public concerns if they recur or conflict with the constitutional rights of equality and equal opportunity.

The Ombudsman's Office assists women in obtaining the rights prescribed by international conventions, the Constitution, and Egyptian laws. It communicates with legislators and policymakers regarding problems endured by women and has developed a database of the type and frequency of complaints and the resulting constraints imposed upon women. The Ombudsman's Office has recorded 20,000 complaints and requests for legal advice on numerous topics, including personal status, work, administrative matters, violence, execution of legal orders, social insurance, social welfare, civil and criminal lawsuits, sexual matters, and civil documents. The Ombudsman's Office communicates regularly with the concerned bodies to resolve these problems.

Lessons learned. The Ombudsman's Office's authenticated database has strong credibility regarding legal problems experienced by Egyptian women. This creates opportunities to achieve many objectives related to legislative change. The database can be used to influence public opinion and manage change campaigns. The Office's affiliation with the Egyptian government facilitates dialogue with decision-makers but restricts its position regarding publication of important, reliable, and authenticated reports.

The training programs provided by the NCW play a significant role in changing trends. "Discussions revealed a clear understanding by the lawyers for the concept of violence and its various forms, and a total objection to all forms of physical or psychological violence, yet diverging views and trends were apparent among the participants from outside the Office."

3.6. Program for Justice and Legal Assistance to Women (Egyptian Center for Women's Rights)

The program monitors violence against women and provides legal and judicial assistance to empower women to secure their rights. In addition, the program analyzes legal problems that women face and promotes awareness that women's rights are integral to human rights, raises women's awareness of their legal rights, and trains them to defend their rights and break down psychological barriers when claiming their rights before judges.

Lessons learned. This is one of only a few programs concerned with providing legal assistance, which qualifies it to communicate with women at the legal level and analyze the legal system according to authenticated case studies. In addition, the program is able to analyze legal, political, and social contexts and identify legislative shortcomings. Because the project is under the auspices of an NGO, reports can be issued on women's status without being subject to government pressure. As a result, it can fill in gaps in research related to violence against women from the legal perspective.

3.7. The Hotline Project (Center for Egyptian Women's Legal Assistance)

Free legal services and advice have been provided to women through the hotline since October 1997. The project aims to protect women from injustice and exploitation, to inspire them to take advantage of their legal rights, and to advance women's status and aspirations.

Furthermore, the Project provides women with legal education and raises their awareness of the rights available via national laws in areas that affect their lives, such as personal status, family, work, health, and social insurance.

Lessons learned. This is one of the few programs concerned with legal literacy. It could be further developed to make important contributions to supplement information on violence against women.

4. WHAT CAN OR CANNOT BE DONE, AND WHY?

The success of efforts to eliminate violence against women relies on developing a general strategy that integrates governmental policies, civil society, and the media with the goals of strengthening the capacity of bodies concerned with combating violence against women and monitoring legislation related to violence.

A prerequisite is adoption of a comprehensive methodology for developing and implementing policy. The methodology must consider a number of factors, including political will, legislation and implementation, and Egyptian culture and traditions.

The following recommendations create opportunities for achieving these goals.

4.1. Family Laws

4.1.1. Violence and Marriage

- Amend the essence of the Personal Status Law to incorporate a comprehensive vision of the best interests of families to reform an environment that fosters violence against women and encourages a belief among some judges and the public that women are not entitled to certain rights.
- Amend procedures laid out in the Personal Status Law to support and enforce this vision.
- Regulations of proof are not considered to be among the general order, and thus, it is necessary that the burden of proof in personal status affairs be made the responsibility of men.
- Establish a family investigation division authorized to conduct investigations.
- Create a register to record the legal status of the family as a reference for determining rights and obligations of all concerned parties.
- Make the resolutions of Family Dispute Settlement offices binding by submitting them to the judge of temporary matters to give them an executive form.
- Authorize Family Dispute Settlement offices to determine and impose fines and penalties for husbands who do not fulfill their family obligations.
- Incorporate into the Family Court places and procedures whereby trained religious representatives can provide family counseling.

- Establish alternatives to the custodial penalty in alimony lawsuits to deter delinquency, while serving the interests of the wife and children, either by obtaining payment or paying a fine to the Family Insurance Fund.
- Designate deliberation rooms where temporary alimony arrangements can be reviewed independently.
- Classify domestic violence as a dishonorable crime that is made part of a person's criminal record in case of recurrence.
- Build the capacity and improve the performance of Ombudsman's Offices and establish an emergency hotline.
- Obligate Nasser Bank to enforce all the judicial decisions that pertain to alimony without a maximum ceiling and temporary alimony decisions, as Nasser Bank has the authority to undertake garnishment of wages. This mechanism would settle the relationship between alimony seekers and the party providing the alimony, as well as reduce social tensions.

4.1.2. Violence and Divorce

- Apply the same arbitration mechanism used in economic lawsuits to family lawsuits, and vest it with binding authority.
- Enhance the judicial system by empowering staff in the Family Dispute Settlement office of the Family Courts to reconcile disputes.

4.1.3. Women's Rights and Child Custody Following Divorce

- Make representation of women in alimony cases the responsibility of the state, official bodies, institutions, or syndicates to shorten the process and protect their rights.
- During alimony procedures, support women through state-provided temporary or permanent alimony.
- Impose deterrent penalties for false denials of paternity.
- Develop innovative solutions for custody and visitation issues to serve the best interests of children and the psychological stability for the women; protect children in their mother's custody, while providing fathers with the opportunity to participate in the care of their children; and reduce violence against women.
- Enable children to hold their own passports as a personal right under a court order.
- Provide residences for custodial mothers who have been deprived of their homes.

- Enforce prompt responses by the Ministry of the Interior to child-kidnapping cases reported by the custodial parent.

4.2. Penal Code

4.2.1. Domestic Violence

- Reconsider articles that imply discrimination against women.
- Encourage changes in the concept of discipline as grounds for violence against women, and consider alternatives to current penalties for violent “discipline,” such as rehabilitation, different work hours, or limitations of freedom through suspension of driver’s licenses, identification cards, or commercial registry, bans on travel, or the assumption of leadership positions.
- Enforce criminal penalties against husbands who refuse to provide for their families — thereby jeopardizing the family and its children — despite civil court orders to do so.
- Make penalties for domestic violence as severe as those for rape committed by a relative of the victim to reinforce the idea that a husband is entrusted with protecting his wife’s welfare and interests.
- Record incidents of domestic violence to be used against husbands in case of recurrence (even if a wife waives her rights and reconciles with her husband).
- Train law enforcement officers and legal staff on appropriate approaches to dealing with domestic violence.

4.2.2. Rape

- Establish special units inside police stations to receive reports of sexual crimes and crimes related to domestic violence.
- Amend investigations conducted through the Attorney General’s office to ensure that trained female staff interview victims at home or in a hospital.
- Establish criteria that define the circumstances in which judges may impose more lenient sentences under Article 17 of the Penal Code.
- Change procedures to ensure that female officers take statements from sexual harassment or rape victims, and that these interviews are conducted in private areas.
- Authorize human rights organizations to attend investigations to protect the privacy of victims.

4.2.3. Sexual Harassment

- Enact a new law stipulating the definition, proof, and criminalization of sexual harassment. In addition, give police officers on the street authority to draft reports about incidents on the spot as they happen, on pre-prepared forms, just like traffic officers.
- Authorize street security officers to take statements on the spot.
- Develop forms for taking statements and a process for recording information about alleged perpetrators in special registers at police stations. The second complaint filing should represent sufficient grounds of proof against the perpetrator.
- Train police officers and the district attorney's staff in sensitive questioning and investigative processes, as well as active listening.
- Adopt measures to deter law enforcement officers from improper practices, such as neglecting to take statements or cooperating with alleged perpetrators.

4.3. Labor Law

- Draft legal provisions to address sexual harassment.
- Conduct thorough investigation in case of recurrence.
- Maintain the confidentiality of complaints.
- Monitor implementation of the law and protect women against violations.
- Examine legislative gaps and eradicate all forms of discrimination against women.

4.4. Civil Code

- Expand social insurance for all women.
- Study options for sharing family income in divorce cases.

4.5. Civil Society

- Enhance NGOs' awareness of laws and human rights; ensure that family guidance and counseling processes follow applicable laws.
- Train NGOs that offer legal aid to women on the international protocols that Egypt has signed concerning women and on enforcement mechanisms through local laws.
- Train lawyers to understand and pursue women's rights, particularly the right of access to justice.

- Educate women in rural communities to understand their legal rights and take on leadership roles in combating violence against women.

5. OPPORTUNITIES TO IMPROVE AND EXECUTE THE LEGAL FRAMEWORK

- *The international protocols signed with Egypt are legislative references.* The international protocols encourage dialogue with the concerned bodies, which benefit from international experience. Moreover, the protocols contribute to the success of campaigns for legislative change.
- *Combating violence against women is an international concern.* International concern is manifested in the campaigns launched by the United Nations Secretary-General and Amnesty International. Their communications are vehicles for sharing experiences and information, and they serve as examples for the capacity-building efforts of other organizations. International concern can also influence change.
- *The NCW Ombudsman's Office collects information that can help shape public opinion.* The NCW Ombudsman's Office maintains a database to monitor complaints of violence and discrimination against women. The information in this database can be an influencing factor in shaping public opinion; it can also assist with lobbying campaigns.
- *Women's rights organizations conduct legal studies and prevention programs.* Specialized studies of legislation identify gaps in protection of women. The sponsoring organizations also offer useful programs for prevention of violence and protection of women, which can receive additional support.
- *Social indicators show that Egyptian families are changing.* Divorce cases are increasing in Egypt, and more families are headed by women. These changes create a strong motive for creating balance within the family and rendering the home a safe environment for women.
- *Training programs can help legislators, the judiciary, and the police force to better understand how to combat violence against women.* Members of Parliament, the judiciary, and the police force do not receive sufficient training to understand either concepts of violence against women or mechanisms for addressing the issue. Existing programs do not adequately address violence against women. Therefore, these programs should be scaled up to increase their effectiveness.
- *Diversified channels can influence public opinion.* Advertising and media outlets have continual access to the largest possible audiences, providing a mechanism for influencing public. It is important to develop a media strategy that addresses legal violence to help people understand its effect on the daily life of Egyptians — men, as well as women.

6. CHALLENGES FACING LAWMAKERS AND POLICYMAKERS

- The right of discipline exercised by men is perceived as a legitimate justification for condoning all forms of violence against women.
- Studies of legal violence and programs to eradicate violence against women are limited.
- Legal discrimination against women contributes to deepening Egypt's male-dominated society and hinders change in a culture that supports violence against women.
- Rising fundamentalist movements play an instrumental role in influencing Egyptian culture and resisting change in the status or treatment of woman.
- A common female vision or clear strategy for combating violence against women is absent.
- The emergence of foreign donors supporting projects addressing women's issues stimulates public sensitivity on the issue.
- Criteria governing the application of Article 17 of the Penal Code do not exist.

7. RECOMMENDATIONS BASED ON LEGAL STUDIES

Several studies have evaluated the laws, proceedings, and constitutional amendments adopted by the Government of Egypt to combat violence against women. Honor crimes head the agenda. The studies address a number of topics, including:

- Areas with the highest rate of violent crimes against women
- Disparities in crime rates between rural and urban areas and in lower- and higher-income areas
- Characteristics of perpetrators, such as age, education, and profession
- Characteristics of victims
- Effects of cultural heritage, social structure, and rumors on crimes, such as honor crimes

Ultimately, the studies attempt to understand whether these topics — as well as discrimination based on gender, class, and the laws themselves — are considered determinant factors in issues of violence against women.

The studies have culminated in a number of significant recommendations on the role of the state, civil society, the media, and religious leaders.

7.1. The Role of the State and Its Laws

- Review all legislation and delete provisions that foster violence against women.
- Enact deterrent statutes that protect women and children against all forms of physical and emotional violence in the family, workplace, or community.

- Identify domestic violence as a crime against the entire society related to public, not just private, rights.
- Ensure strict application of laws protecting women and sanctioning violators.
- Engage women in formulating laws — in particular, those affecting their status.
- Reconsider the existing Personal Status Law.
- Urge the state (including all concerned institutions) to assume responsibility in protecting women from violence by providing necessary resources and funds from the state budget to enforce mechanisms for combating violence.
- Upgrade family counseling offices affiliated with the Ministry of Social Solidarity and train its staff in providing psychological and social support to victims of violence.
- Train persons dealing with victims of violence, including security and police officers and judicial, social, and medical personnel, so they better comprehend the dimensions and results of the problem, can change stereotypical attitudes, and are empowered to extend effective assistance that preserves the dignity and rights of women.
- Raise officials' awareness of human and women's rights.
- Increase the number of shelters for violated women, augment their services to include psychological counseling, legal aid, and medical care, and train staff to provide these services to residents and walk-in clients.
- Include human rights and the Convention on the Elimination of Discrimination against Women in educational curricula.
- Support establishment of NGOs concerned with combating violence and rehabilitating victims, and build the capacity of these organizations to overcome violence against women.

7.2. The Role of Civil Society

- Develop a comprehensive vision toward combating violence against women in all its forms and aspects.
- Integrate all forms of gender-based suppression, discrimination, and stereotypes in discussions of violence against women.
- Change attitudes by highlighting women's positive roles and communicating the damage that violence against women does to families and society.
- Study the repercussions of violence against women, including the impact of violence on the development process.

- Mount a grassroots campaign, with governmental participation, to support development efforts in Egypt.
- Integrate combating violence against women into as many NGO programs as possible.
- Improve services at family counseling centers by training specialists to collect data from families in order to better assist them.
- Provide victims of domestic violence with financial and domestic support, social and psychological services, and legal assistance.
- Establish legal aid offices/victim's rehabilitation centers in remote areas in order to cover all parts of the country, and acquaint the surrounding population with the center's activities.
- Organize training at various levels to explain the symptoms, causes, and effects of violence against women.
- Promote programs to address gaps in legal awareness, such as the predominant belief that husbands control legal guardianship regardless of their conduct.

7.3. The Role of the Media

- Develop a strategic media plan to highlight the issue of violence.
- Adopt a separate strategic plan to identify problems facing women; develop messages to change attitudes about unequal treatment of men and women.
- Avoid featuring movies on violence, crime, and sex in the media.
- Develop cultural programs in the media that focus on acquainting youths of both genders with the rights and responsibilities of marriage.

7.2. The Role of Religious Institutions

- Increase funding and cultural awareness of religious leaders and educators.
- Encourage enlightened religious leaders to advance correct religious interpretation and discourage misrepresentation that results in exploitation or abuse.